UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,356	09/26/2003	Paul R. Carpentier	EO295.70192US00	3248

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EXAMINER
CALLAHAN, PAUL E

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2137	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 September 2003</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,4,7-9,11,12,14 and 15</u> is/are rejected.

7)☐ Claim(s) <u>2,3,5,6,10 and 13</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>26 September 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>9-26-03</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-15 are pending in the instant application and have been

examined.

Specification

2.   The abstract of the disclosure is objected to because it exceeds the

maximum length of 150 words. Correction is required. See MPEP § 608.01(b).

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially
created doctrine grounded in public policy (a policy reflected in the statute) so as
to prevent the unjustified or improper timewise extension of the "right to exclude"
granted by a patent and to prevent possible harassment by multiple assignees.
A nonstatutory obviousness-type double patenting rejection is appropriate where
the conflicting claims are not identical, but at least one examined application
claim is not patentably distinct from the reference claim(s) because the examined
application claim is either anticipated by, or would have been obvious over, the
reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed.
Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In
re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ
619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA
1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or
1.321(d) may be used to overcome an actual or provisional rejection based on a
nonstatutory double patenting ground provided the conflicting application or
patent either is shown to be commonly owned with this application, or claims an
invention made as a result of activities undertaken within the scope of a joint
research agreement.
        Effective January 1, 1994, a registered attorney or agent of record may
sign a terminal disclaimer. A terminal disclaimer signed by the assignee must
fully comply with 37 CFR 3.73(b).

4.   Claims 1-12, 14, and 15 are rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 15, 18-

21, 27 and 28 of U.S. Patent No. 6,807,632. Although the conflicting claims are

not identical, they are not patentably distinct from each other because they each

recite identical methods of the assignment of file identifiers based on the content

of a digital asset using cryptographic hash functions, the arrangement of the

data in content addressable storage, and the retrieval of the data using asset

identifiers and descriptor files. The claims differ in that claim 28 of the Patent

recites a limitation directed towards an importer program arranged to accept

said asset identifier from said descriptor file and to retrieve said digital asset

using said asset identifier, while the claims of the instant application do not.

However the use of such a program is inherent to the processor system set forth

in the claims of the instant application. Additionally, the use of such a program is

old and well known in the art. Therefore it would have been obvious to one of

ordinary skill in the art at the time of the invention to incorporate such a program

into the processor system set forth in the claim of the instant invention. It would

be desirable to do so since this would automate file retrieval.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1, 4, 7-9, 11, 12, 14, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Farber et al., US 5,978,791.

As for claim 1, Farber teaches a method of storing a digital asset in a data repository coupled to a network (col. 5 lines 1-35), said method comprising: receiving at the data repository a broadcast cryptographic hash descriptor file identifier that identifies the digital asset, determining whether the broadcast cryptographic hash descriptor file identifier is a cryptographic hash descriptor file identifier known to the data repository, when the broadcast cryptographic hash descriptor file is not known to the data repository adding the broadcast cryptographic hash descriptor file identifier to a list of desired broadcast cryptographic hash descriptor file identifiers (col. 14 lines 40-65: Assimilate Data Item, col. 22 line 24: Copy File or Directory, col. 24 line 49: Move File or Directory: the directory is taught as a directory of True names and hence reads on a descriptor file); receiving at the data repository the digital asset identified by the broadcast cryptographic hash descriptor file identifier (col. 25 lines 25-45, col. 26 lines 20-39); generating a generated cryptographic hash descriptor file identifier from the asset received digital asset; and verifying that the generated cryptographic hash descriptor file identifier for the received digital asset matches

the broadcast cryptographic hash descriptor file identifier (col. 12 line 54 through col. 13 line 67, col. 14 lines 40-65: Assimilate Data Item, col. 22 line 24: Copy File or Directory, col. 24 line 49: Move File or Directory: the directory is taught as a directory of True names and hence reads on a descriptor file).

As for claim 4, Farber teaches the method according to claim 1, further comprising: issuing a broadcast request for the digital asset corresponding to the broadcast cryptographic hash descriptor file identifier and wherein the method further comprises: ending the broadcast request for portions of assets the digital asset that have not been obtained (col. 16 lines 38-61).

As for claim 7, Farber teaches a method as recited in claim 1, wherein the data repository is a first data repository of a plurality of data repositories coupled to the network (fig. 1a, col. 5 lines 3-16), said and wherein the method further comprises: comparing the cryptographic hash descriptor file identifier to a selection rule for the first data repository; and determining whether to add the broadcast cryptographic hash descriptor file identifier to the list of desired broadcast cryptographic hash descriptor file identifiers based on said selection rule (col. 25 lines 23-45).

As for claim 8, Farber teaches a method as recited in claim 1 wherein said received asset is a descriptor file, said method further comprising: opening the descriptor file to obtain a list of asset identifiers included therein, and adding the

list of asset identifiers to the list of desired broadcast cryptographic hash descriptor file identifiers (col. 22 line 24, 49: Copy File or Directory).

As for claim 9, Farber teaches a method as recited in claim 1 further comprising: storing said received asset in said data repository (col. 25 lines 23-45); and responding to a request received over the network from another device for said stored asset by broadcasting the stored asset (col. 26 lines 20-39).

As for claims 11 and 12, the claims recite substantially the same limitations as claim 1 and therefore are rejected on the same basis as that claim.

As for claim 14, Farber teaches the method of claim 1, further comprising: issuing a broadcast request over the network requesting the digital asset corresponding to the broadcast cryptographic hash descriptor file identifier (col. 16 lines 38-61).

As for claim 15, Farber teaches the method of claim 1, further comprising, after adding the broadcast cryptographic hash descriptor file identifier to the list of desired cryptographic hash descriptor file identifiers, issuing a broadcast request over the network requesting the digital asset corresponding to the broadcast cryptographic hash descriptor file identifier (col. 16 lines 38-61).

Allowable Subject Matter

7.   Claims 2, 3, 5, 6, 10, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8.   The following is a statement of reasons for the indication of allowable subject matter: the closest prior art, Farber, fails to teach the combination of features found in the following claims, particularly including:

As for claim 2, wherein adding the broadcast cryptographic hash descriptor file identifier to the list includes: determining the number of times the broadcast cryptographic hash descriptor file identifier has been received at the data repository; and determining whether to add the cryptographic hash descriptor file identifier to said list based upon said number of times.

As for claim 3, wherein receiving the digital asset identified by the transmitted cryptographic hash descriptor file identifier includes: receiving portions of said asset identified by the transmitted cryptographic hash descriptor file identifier at different times; and assembling the portions of the asset into the complete asset.

As for claim 5, determining an amount of broadcast traffic on at least a portion of the network, determining whether to send the broadcast request based on the amount of broadcast traffic on at least a portion of the network.

As for claim 6, quarantining the asset while verifying that the generated cryptographic hash descriptor file identifier matches the broadcast cryptographic hash descriptor file identifier.

As for claim 10, responding to a request received over the network from another device for a digital asset stored in the data repository by broadcasting portions of the stored asset; and broadcasting the portions of the stored file asset before the entire asset is received at the data repository.

As for claim 13, the method of deletion in combination with the comparison step of a received broadcast cryptographic hash descriptor file.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865.

The fax phone number for the organization where this application or proceeding is assigned is: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PEC
3-1-07

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